

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Schools and Libraries Universal Service</b>	)	<b>CC Docket No. 02-6</b>
<b>Support Mechanism</b>	)	
	)	

**Comments of Fibertech Networks, LLC**

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**Date: July 21, 2003**

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**SUMMARY**

As an active participant in the Schools and Libraries (“E-rate”) program, Fibertech Networks, LLC (“Fibertech”) supports those efforts aimed at improving and streamlining the E-rate application process, as well as curbing waste, fraud and abuse in the program. In these comments, Fibertech proposes the development of a list of eligible online service vendors that would be maintained by the Schools and Libraries Division and used in the application process. Registration fees paid by the eligible vendors could be used to maintain such a list and to fund audits of the program. Fibertech also supports the Federal Communications Commission’s proposal for an online list of brand name products and services, and sets forth herein recommendations on how to coordinate utilization of these lists to improve the E-rate program. Fibertech believes that adoption of these proposals will help reduce incidences of fraud and abuse in the E-rate program and will facilitate the funding process by clarifying the eligibility of services, streamlining the approval process, and decreasing the number of denials.

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**Comments of Fibertech Networks, LLC**

Fibertech Networks, LLC, (“Fibertech”), by its undersigned counsel, hereby submits these comments in response to the Federal Communications Commission’s (“Commission’s” or “FCC’s”) Further Notice of Proposed Rulemaking (“*FNPRM*”) issued in the above-referenced proceeding.<sup>1</sup> As an active participant in the Schools and Libraries (“E-rate”) program, Fibertech supports those efforts aimed at improving and streamlining the E-rate application process, as well as curbing waste, fraud and abuse in the program. To address these issues, Fibertech proposes the development of a list of eligible online service vendors that would be maintained by the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”) and used in the application process. Registration fees paid by the eligible vendors could be used to maintain such a list and to fund audits of the program. Fibertech believes that adoption of its proposal will help reduce incidences of fraud and abuse in the E-rate program and facilitate the funding process. Fibertech also supports the Commission’s proposal for an online

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<sup>1</sup> FCC Public Notice, DA 03-2081 (rel. June 25, 2003); *see* In the Matter of Schools and Libraries Universal Service Support Mechanism, *Second Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 02-6, FCC 03-101 (rel. Apr. 30, 2003) (“*FNPRM*”).

list of brand name products and services, and sets forth herein recommendations on how to coordinate utilization of these lists to improve the E-rate program.

**I. FIBERTECH IS AN ACTIVE PARTICIPANT IN THE E-RATE PROGRAM**

Fibertech is a facilities-based telecommunications service provider that builds, leases and operates dark fiber networks in leading second and third-tier markets throughout the Northeast, Midwest and Mid-Atlantic States. Fibertech has designed high-capacity metro area networks, including fiber rings, to meet the advanced communications and broadband needs of telecommunications carriers, other business entities, and educational and governmental institutions.

Fibertech has been a participant as a service provider in the E-rate program since 1999 and is an eligible vendor with an active Service Provider Identification Number ("SPIN"). Fibertech currently serves 23 school districts and is the winning bidder in nine other districts where applications for E-rate funding are pending. As the winning bidder for multiple contracts, Fibertech has had the opportunity to provide schools with the telecommunications services and Internet access they need to upgrade their communications facilities and provide their students with the advanced communications services that are critical to our educational institutions today. These services have enabled schools to link online resources and databases, provide distance learning and shared applications, and obtain high-speed Internet connections, among other capabilities.

Educational institutions are an important component of Fibertech's customer base and business plan. As such, Fibertech has a vested interest in the efficiency and viability of the E-rate program and agrees that it is necessary to deter the abuse and fraud that undermines the benefits of the program. Fibertech is pleased to have the opportunity to participate in a program

that is aimed at providing schools and libraries with affordable advanced communications services and looks forward to continuing to provide its services to these entities. For these reasons, Fibertech submits these comments and proposals for improving the E-rate program.

## **II. PROPOSAL FOR AN ONLINE LIST OF ELIGIBLE SERVICE VENDORS**

Fibertech agrees that reducing waste and fraud in the E-rate program is an important goal of the Commission and Congress. The FCC has held a public forum on this issue and continues to seek comments from the industry and regulators on how to improve the E-rate program.<sup>2</sup> The House Commerce Committee also has initiated an investigation of the E-rate program in an effort to identify problems with the program and improve the process for the distribution of E-rate funds.<sup>3</sup> In its *FNPRM*, the Commission seeks further comment on how it can establish rules and procedures that help identify and deter fraud and abuse in the program. Fibertech supports these efforts and sets forth several proposals herein, which are aimed at furthering these goals.

Fibertech believes that the E-rate funding process could be improved if an active list of eligible service vendors is created and service vendors involved in funded E-rate projects are required to pay a registration fee for participation in the program. Fibertech proposes that the Commission direct SLD to develop and maintain an online list of eligible service vendors. This list can be created from the FCC Form 498 filings that must be made by service vendors seeking to participate in the E-rate program. There would be an initial presumption that a service vendor is eligible to participate in the program and be included on the SLD service vendor list, although, of course, SLD and the FCC would continue to confirm eligibility for specific products, *i.e.*, that

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<sup>2</sup> *FNPRM*, paras. 102-115.

<sup>3</sup> See Letter to Cheryl L. Parrino, CEO, USAC, from W.J. Tauzin, Chairman, House Committee on Energy and Commerce (March 13, 2003) at <http://energycommerce.house.gov/>.

conditions are met for providing telecommunications services. If SLD or the FCC ultimately find that a service vendor has violated the rules and procedures for participation in the E-rate program, that service vendor would be removed from the SLD list. Applicants seeking to award contracts submitted in response to Form 470 bids would not be permitted to award the contracts to service vendors that are not included on the eligible service vendor list.

Fibertech also proposes that service vendors participating in the E-rate program be required to pay a registration fee to SLD upon award of a contract and grant of the requested funding. The fee could be based on a percentage of the funds awarded, *i.e.*, one-half of 1% of the funding received per fiscal year. For example, if SLD awards \$200,000 in E-rate funding on a contract for fiscal year 2004, the service vendor would pay a registration fee of one-half of one percent of the \$200,000 awarded, or \$1,000. This means that for the approximately \$700 million in E-rate funding distributed thus far this year, SLD could have collected \$3.5 million in registration fees. Vendors would pay the fees on an annual basis as the E-rate funding is distributed.

The percentage would be the same for all the contracts awarded, so, for example, there would not be a higher percentage applied to a higher valued contract. In addition, applicants would still be required to follow the proper procedures in the competitive bidding process and select the most cost-effective provider of the applicable services. These requirements would avoid any concerns that funding approvals are based on the value of a particular contract. SLD could use the funds from these fees to maintain the roster of eligible service providers and to pay for audits aimed at identifying program fraud and violations of the E-rate application process. Indeed, Fibertech recommends that the FCC direct SLD to utilize these fees and a portion of the money it is receiving from interest on undisbursed funds to step up enforcement of audits,

especially independent audits by outside accounting firms, and oversight of participants in the E-rate program. Additional oversight and audits are essential to furthering the goals of the E-rate program and assuring participants and the public that fraud will not be tolerated.

While there always is reluctance to impose additional taxes or fees, the creation of an E-rate registration fee to step up oversight of the program benefits all involved, including the students for which the program is intended, as well as qualified and legitimate vendors. As a dedicated participant in the E-rate program, Fibertech is willing to make such a financial contribution if it improves SLD's ability to audit and police participants that are abusing the process. Fibertech believes that this proposal will help ensure those that are committed to the program will receive the benefits it provides, while discouraging fraud and abuse by others.

### **III. FIBERTECH SUPPORTS THE DEVELOPMENT OF AN ONLINE LIST OF ELIGIBLE SERVICES**

In its rulemaking, the Commission also seeks comment on the feasibility of a computerized online eligible services list that would include brand name products for telecommunications and Internet access services.<sup>4</sup> Fibertech supports the development of such a list, and proposes that this list be utilized in conjunction with the online service vendor list Fibertech has described above.

The Commission and SLD can develop this list from information provided by the service vendors. To make this process more efficient, the FCC Form 498 can be modified to include a request for information on the products and services that vendors provide and any supporting data that demonstrates the eligibility of such products and services to the extent that certain conditions are applicable. Thus, when processing the 498 Forms, SLD can determine the initial

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<sup>4</sup> *FNPRM*, para. 101.



eligibility of these products and services. Once they are pre-approved, SLD can list the eligible products and services with the service vendor's name on the SLD list. Service vendors would provide an updated 498 Form when they delete or add additional products and services to their offerings.


The online list of eligible services must be updated on a regular basis as technologies and choices continue to develop that at times may blur the current categorization of service eligibility at any point in time. The pool of vendor registration fees as proposed above can fund the resources needed to research, review and consider the packaging of these new products and services and determine their eligibility under the Internet Access, Telecommunications Services and Internal Connections categories. Establishment of this list ultimately will reduce the burden of the SLD staff and increase the overall efficiency of the program, while enabling school districts and libraries to consider the deployment of cost-effective emerging technologies.

Moreover, such a list can assist schools and libraries in determining the availability and eligibility of services and help reduce the number of applications that include requests for E-rate funding for ineligible services. This list will also help avoid confusion over what services are eligible, streamline the approval process, and decrease the number of denials. While creation of the list might initially pose a slight administrative burden for SLD and service vendors, it would only be temporary. Once established, the benefits resulting from having this list would outweigh the minimal burdens associated with maintaining it. Additionally, because service eligibility would be clearer, the list would ultimately reduce the administrative costs involved in the review of applications and the processing of appeals.

**IV. CONCLUSION**

As discussed herein, Fibertech supports the goals to improve the E-rate funding process and to curb fraud and abuse in the program. Fibertech encourages the Commission to consider and adopt its proposals set forth herein, which, Fibertech submits, will help further these goals.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kathy L. Cooper", written over a horizontal line.

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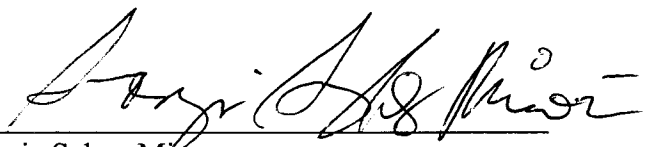
Counsel for Fibertech Networks, LLC

Date: July 21, 2003

## CERTIFICATE OF SERVICE

I, Sonja L. Sykes-Minor, hereby certify that on this 21st day of July, 2003, a true and correct copy of the foregoing *Comments of Fibertech Networks, LLC in CC Docket No. 02-06* was sent by overnight courier to the following:

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